

General Information Letter: Early retirement pay received from school district qualifies for the subtraction modification.

March 2, 2000

Dear:

This is in response to your telephone inquiry of March 1, 2000, in which you requested guidance regarding the Illinois income tax treatment of your early retirement income. The nature of your inquiry and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

You have provided us with the following documents:

- 1) A copy of your Form W-2 for 1999, showing you receive \$1350 in compensation from xxxxxxxxxxxxxxxxxxxxxx, xxxxxxxx, Illinois.
- 2) A copy of the pages of the agreement between the xxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and the xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, xxxxxxxxxxxxxx, dealing with early retirement and severance pay.

In our telephone conversation, you represented that the \$1350 in compensation shown on the Form W-2 is early retirement pay received pursuant to the agreement. Box 11 of the Form W-2 indicates that the entire \$1350 in compensation was paid under a "nonqualified plan." The instructions for the Form W-2 indicate that this box is used to report payments under government retirement plans within the meaning of Section 457 of the Internal Revenue Code.

Response

Section 203(a)(2)(F) of the Illinois Income Tax Act (35 ILCS 5/203) allows an individual to subtract from his or her federal adjusted gross income:

An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto.

You have represented that the compensation shown on the Form W-2 is early retirement pay from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, and that representation is supported by the information shown on the Form W-2 itself. Based on this evidence, the \$1350 in compensation shown on the Form W-2 is from a retirement plan for employees of a governmental agency or unity, and therefore qualifies for the subtraction under Section 203(a)(2)(F).

To insure proper processing of your return, you may attach a copy of this letter.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to

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obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Paul S. Caselton

Deputy Chief Counsel -- Income Tax